

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURTBY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING**OFFENSE CHARGED**

See Attachment

E-filing

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY:

See Attachment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

 person is awaiting trial in another Federal or State Court, give name of court this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District this is a reprocsecution of charges previously dismissed which were dismissed on motion of: U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

 this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

 prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

1) If not detained give date any prior summons was served on above charges2) Is a Fugitive3) Is on Bail or Release from (show District)**IS IN CUSTODY**4) On this charge5) On another conviction} Federal State6) Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer Yes
been filed? No} If "Yes"
give date
filedDATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

Name and Office of Person
Furnishing Information on this form Brian J. Stretch, Acting US Att'y U.S. Attorney Other U.S. AgencyName of Assistant U.S.
Attorney (if assigned)

Kyle F. Waldinger

 This report amends AO 257 previously submitted**PROCESS:** SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

 Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments:

Attachment to Penalty Sheet

United States v. David Nosal and Becky Christian

Offenses Charged

Count One: 18 U.S.C. §§ 1832(a)(5) & 371 – Conspiracy to Misappropriate, Receive, Possess, and Transmit Trade Secrets, Gain Unauthorized Access to a Protected Computer, Exceed Authorized Access to a Protected Computer, and Traffic in a Password Allowing Unauthorized Access to a Protected Computer

Counts Two through Seven: 18 U.S.C. §§ 1030(a)(4) & 1030(c)(3)(A) – Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value

Count Eight: 18 U.S.C. §§ 1832(a)(1), 1832(a)(2) & 1832(a)(4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets

Counts Nine and Ten: 18 U.S.C. §§ 1832(a)(3) & 1832(a)(4) – Unauthorized Receipt and Possession of Stolen Trade Secrets

Counts Eleven through Eighteen: 18 U.S.C. § 1341 — Mail Fraud

Count Nineteen: 18 U.S.C. § 1349 — Conspiracy to Commit Mail Fraud

Penalties

Count One: 10 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Two through Seven: 5 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Count Eight: 10 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Nine and Ten: 10 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Eleven
through Eighteen: 20 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Count Nineteen: 20 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, And/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

See Attachment

E-filing

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

See Attachment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

person is awaiting trial in another Federal or State Court,
 give name of court

this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprocution of
 charges previously dismissed
 which were dismissed on motion
 of:

U.S. ATTORNEY DEFENSE

this prosecution relates to a
 pending case involving this same
 defendant

prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

SHOW
DOCKET NO.MAGISTRATE
CASE NO.

Name and Office of Person
 Furnishing Information on this form Brian J. Stretch, Acting US Att'y

U.S. Attorney Other U.S. Agency

Name of Assistant U.S.
 Attorney (if assigned)

Kyle F. Waldinger

This report amends AO 257 previously submitted

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments:

DEFENDANT - U.S.

DAVID NOSAL

DISTRICT COURT NUMBER

JSW

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

1) If not detained give date any prior
 summons was served on above charges

2) Is a Fugitive3) Is on Bail or Release from (show District)

IS IN CUSTODY

4) On this charge5) On another conviction

} Federal State

6) Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer Yes
 been filed? No

} If "Yes"
 give date
 filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

ADDITIONAL INFORMATION OR COMMENTS		
<p><input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> NO PROCESS* <input type="checkbox"/> WARRANT</p> <p>If Summons, complete following:</p> <p><input type="checkbox"/> Arraignment <input type="checkbox"/> Initial Appearance</p> <p>Defendant Address:</p> <hr/> <p>Comments:</p>		
<p>Bail Amount: _____</p> <p>* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment</p> <p>Date/Time: _____ Before Judge: _____</p>		

Attachment to Penalty Sheet**United States v. David Nosal and Becky Christian****Offenses Charged**

Count One: 18 U.S.C. §§ 1832(a)(5) & 371 – Conspiracy to Misappropriate, Receive, Possess, and Transmit Trade Secrets, Gain Unauthorized Access to a Protected Computer, Exceed Authorized Access to a Protected Computer, and Traffic in a Password Allowing Unauthorized Access to a Protected Computer

Counts Two through Seven: 18 U.S.C. §§ 1030(a)(4) & 1030(c)(3)(A) – Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value

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Counts Nine and Ten: 10 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Counts Eleven

through Eighteen: 20 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

Count Nineteen:

20 years' imprisonment, \$250,000 fine or twice the gross gain or gross loss, 3 years of supervised release, \$100 special assessment

United States District Court
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

DAVID NOSAL and BECKY CHRISTIAN

DEFENDANT(S).

INDICTMENT

VIOLATIONS: 18 U.S.C. §§ 1832(a)(5) & 371 – Conspiracy to Misappropriate, Receive, Possess, and Transmit Trade Secrets, Gain Unauthorized Access to a Protected Computer, Exceed Authorized Access to a Protected Computer, and Traffic in a Password Allowing Unauthorized Access to a Protected Computer; 18 U.S.C. §§ 1030(a)(4) & 1030(c)(3)(A) – Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value; 18 U.S.C. §§ 1832(a)(1), 1832(a)(2) & 1832(a)(4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets; 18 U.S.C. §§ 1832(a)(3) & 1832(a)(4) – Unauthorized Receipt and Possession of Stolen Trade Secrets; 18 U.S.C. § 1341 – Mail Fraud; 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud; 18 U.S.C. § 2 – Aiding and Abetting

Indict
A true bill.

Jane L. Winkler
Foreman

Filed in open court this 10 day of APRIL
2008

Wing, Hon
Clerk

Bail, \$ No Process
Jane L.

FILED
US APR 10 PM 12:50
MICHAEL W. BILLING
NORTHERN DISTRICT COURT
CALIFORNIA

1 BRIAN J. STRETCH (CSBN 163973)
2 Acting United States Attorney
3
4
5
6
7

E-filing

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DAVID NOSAL and
15 BECKY CHRISTIAN,

16 Defendants.

CR

No.

08

0237

JSW

17 VIOLEATIONS: 18 U.S.C. §§ 1832(a)(5) & 371 –
18 Conspiracy to Misappropriate, Receive, Possess,
19 and Transmit Trade Secrets, Gain Unauthorized
20 Access to a Protected Computer, Exceed
21 Authorized Access to a Protected Computer, and
22 Traffic in a Password Allowing Unauthorized
23 Access to a Protected Computer; 18 U.S.C.
24 §§ 1030(a)(4) & 1030(c)(3)(A) – Unauthorized
25 Access to a Protected Computer with Intent to
26 Defraud and Obtaining Something of Value; 18
27 U.S.C. §§ 1832(a)(1), 1832(a)(2) & 1832(a)(4) –
28 Theft, Misappropriation, and Unauthorized
Download of Trade Secrets; 18 U.S.C.
§§ 1832(a)(3) & 1832(a)(4) – Unauthorized
Receipt and Possession of Stolen Trade Secrets;
18 U.S.C. § 1341 – Mail Fraud; 18 U.S.C. § 1349
– Conspiracy to Commit Mail Fraud; 18 U.S.C.
§ 2 – Aiding and Abetting

SAN FRANCISCO VENUE

23 INDICTMENT

24 The Grand Jury charges:

25 BACKGROUND

26 At all times relevant to this Indictment:

27 Korn/Ferry International

28 1. Korn/Ferry International (“Korn/Ferry”) was an executive search firm

1 headquartered in Los Angeles, California. Korn/Ferry also maintained a Silicon Valley office in
2 Redwood City, California, as well as a San Francisco office and other offices throughout the
3 United States and the world. Korn/Ferry was one of the leading providers of executive
4 recruitment services to businesses in the United States. As used herein, the terms "executive
5 search" and "executive recruitment" refer to searches to fill executive, board-of-director, and
6 similar high-level positions, as well as related and similar activities.

7 The Defendants

8 2. The defendant David Nosal was employed by Korn/Ferry in its Silicon Valley
9 office and elsewhere from approximately April 1996 until approximately October 2004. During
10 his tenure at Korn/Ferry, Nosal held a number of high-level positions, including Regional
11 Managing Director and Office Managing Director. Nosal planned to start a competing executive
12 search firm after terminating his employment with Korn/Ferry. However, under the terms of a
13 Separation and General Release Agreement and an Independent Contractor Agreement (referred
14 to collectively hereafter as the "Nosal-Korn/Ferry Agreements") into which Nosal voluntarily
15 entered with Korn/Ferry, Nosal agreed to serve as an independent contractor to Korn/Ferry from
16 November 1, 2004 through October 15, 2005. Among other promises, Nosal agreed to cooperate
17 with Korn/Ferry on certain ongoing search assignments and agreed not to perform executive
18 search, executive placement, management assessment, or management audit services on behalf of
19 any other entity but Korn/Ferry during the period that the Nosal-Korn/Ferry Agreements were in
20 effect. In exchange, Korn/Ferry was to pay Nosal \$25,000 per month during that period and was
21 to pay Nosal lump-sum payments on or before July 31, 2005 and on or before October 15, 2005.

22 3. The defendant Becky Christian was employed by Korn/Ferry in its Silicon Valley
23 office and elsewhere from approximately September 1999 until approximately January 2005.
24 After she left Korn/Ferry, Christian set up an executive search firm known as Christian &
25 Associates LLC. In truth, however, Christian worked with the defendant Nosal in setting up
26 Nosal's executive search firm and either assisted, or was assisted by, Nosal in conducting
27 executive searches. In general, Christian retained 20% of the revenues from searches that she
28 conducted with Nosal and provided Nosal with the remaining 80%.

1 Other Individuals

2 4. The individual identified herein as "J.F." was employed by Korn/Ferry from
3 approximately December 1997 to approximately August 2005. J.F. served as the defendant
4 Nosal's executive assistant prior to Nosal's departure from Korn/Ferry. After Nosal left
5 Korn/Ferry, J.F. continued to be employed by Korn/Ferry but assisted Nosal in setting up Nosal's
6 new executive search firm.

7 5. The individual identified herein as "M.J." was employed by Korn/Ferry from
8 approximately January 2001 to approximately March 2005. After leaving Korn/Ferry, M.J.
9 worked with the defendant Nosal in setting up Nosal's executive search firm and either assisted,
10 or was assisted by, Nosal in conducting executive searches during approximately the spring and
11 summer of 2005. Nosal asked M.J. to establish a company in M.J.'s name, so that this company
12 — like Christian & Associates LLC — could be used as a vehicle for Nosal to continue to
13 conduct executive search activities until the expiration of the Nosal-Korn/Ferry Agreements.
14 Nosal proposed the same 80/20 split in revenues with M.J. that Nosal had adopted with the
15 defendant Christian.

16 The Searcher Database

17 6. In performing their work, Korn/Ferry employees relied heavily on the "Searcher"
18 database, a highly confidential and proprietary database of executives and companies. This
19 database also contained information regarding search engagements that Korn/Ferry had
20 conducted for clients in the past. Using the "Custom Report" feature of the Searcher database,
21 Korn/Ferry employees quickly could sort through information in the database to create targeted
22 reports on executives, companies, and prior search engagements for use in candidate
23 development for clients and in client presentations.

24 7. The information contained in the Searcher database regarding executives,
25 companies, and Korn/Ferry's prior search engagements was the product of the efforts of
26 hundreds of Korn/Ferry employees over many years. Korn/Ferry considered the Searcher
27 database to be one of the most comprehensive databases of executive candidates in the world.

28 8. The information in the Searcher database regarding Korn/Ferry's prior search

1 engagements included "source lists" (which were also referred to as "candidate lists"), generally
2 described as lists of candidates that Korn/Ferry presented to client companies with respect to
3 particular positions that those clients were trying to fill. Korn/Ferry considered these source lists
4 to be extremely valuable when initiating subsequent searches for executives for similar positions.

5 The Confidentiality of Information in the Searcher Database

6 9. Korn/Ferry undertook considerable measures to maintain the confidentiality of the
7 information contained in the Searcher database. These measures included controlling electronic
8 access to the Searcher database and controlling physical access to the computer servers that
9 contained the database. Korn/Ferry employees received unique usernames and created passwords
10 for use on the company's computer systems, including for use in accessing the Searcher database.
11 These usernames and passwords were intended to be used by the Korn/Ferry employee only.

12 10. Korn/Ferry required all of its employees — including the defendants David Nosal
13 and Becky Christian — to enter into agreements that both explained the proprietary nature of the
14 information disclosed or made available to Korn/Ferry employees (including the information
15 contained in the Searcher database) and restricted the use and disclosure of all such information,
16 except for legitimate Korn/Ferry business. Nosal executed such an agreement on or about April
17 26, 1996. Christian executed such an agreement on or about September 25, 1999.

18 11. Among other additional measures, Korn/Ferry also declared the confidentiality of
19 information in the Searcher database by placing the phrase "Korn/Ferry Proprietary and
20 Confidential" on every Custom Report generated from the Searcher database. Further, when an
21 individual logged into the Korn/Ferry computer system, that computer system displayed the
22 following notification, in sum and substance:

23 This computer system and information it stores and processes are
24 the property of Korn/Ferry. You need specific authority to access
25 any Korn/Ferry system or information and to do so without the
relevant authority can lead to disciplinary action or criminal
prosecution. . . .

26 ///

27 ///

28 ///

1 COUNT ONE: 18 U.S.C. §§ 1832(a)(5) & 371 — Conspiracy to Misappropriate, Receive,
 2 Possess, and Transmit Trade Secrets, Gain Unauthorized Access to a
 3 Protected Computer, Exceed Authorized Access to a Protected Computer,
 4 and Traffic in a Password Allowing Unauthorized Access to a Protected
 5 Computer

6 12. The factual allegations in paragraphs 1 through 11 are re-alleged and incorporated
 7 herein as if set forth in full.

8 13. Beginning on a date unknown, and continuing to no later than August 2, 2005, in
 9 the Northern District of California, and elsewhere, the defendants

10 DAVID NOSAL and
 11 BECKY CHRISTIAN

12 did knowingly and intentionally conspire and agree with each other and with other persons, to
 13 commit the following offenses: misappropriation, receipt, possession, and transmission of trade
 14 secrets, in violation of 18 U.S.C. §§ 1832(a)(1), (a)(2) and (a)(3); unauthorized access to a
 15 protected computer, in violation of 18 U.S.C. § 1030(a)(4); exceeding authorized access to a
 16 protected computer, in violation of 18 U.S.C. § 1030(a)(4); and trafficking in a password
 17 allowing unauthorized access to a protected computer, in violation of 18 U.S.C. § 1030(a)(6)(A).

18 MANNER AND MEANS OF THE CONSPIRACY

19 14. It was part of the conspiracy that the defendants and co-conspirators would and
 20 did knowingly, and with intent to defraud, obtain things of value from Korn/Ferry's computer
 21 system, including source lists and other information.

22 15. It was further part of the conspiracy that the defendants and co-conspirators would
 23 and did steal, and without authorization knowingly take by fraud, artifice, and deception, trade
 24 secrets from Korn/Ferry's computer system, including source lists.

25 16. It was further part of the conspiracy that individual co-conspirators and others
 26 would obtain these trade secrets and other things of value from Korn/Ferry's computer system
 27 prior to and upon termination of their employment with Korn/Ferry by using their own
 28 Korn/Ferry usernames and passwords, and did so without authorization and in excess of
 authorized access.

17. It was further part of the conspiracy that, after their separation from Korn/Ferry,

1 the defendants and co-conspirators would obtain these trade secrets and other things of value
 2 from Korn/Ferry's computer system by using, either directly or through J.F., J.F.'s Korn/Ferry
 3 username and password, and did so without authorization and in excess of authorized access.

4 18. It was further part of the conspiracy that the defendants and co-conspirators would
 5 and did obtain things of value from Korn/Ferry's computer system; misappropriate Korn/Ferry
 6 trade secrets; receive and possess stolen trade secrets; and transmit Korn/Ferry trade secrets to
 7 each other, all for the purpose of retaining clients and placing candidates as part of their non-
 8 Korn/Ferry executive search activities.

9 OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

10 19. In furtherance of the conspiracy and to effect the objects thereof, the following
 11 overt acts, among others, were committed in the Northern District of California, and elsewhere:
 12 Receipt, Possession, Transmission, and Use of Chief Financial Officer Information from
Korn/Ferry's Computer System

13
 14 a. On or about April 11, 2005, the defendant Christian sent an e-mail to J.F. stating
 15 "It is to difficult to explain the searcher run I would need to log in as you."

16 b. On or about April 12, 2005, the defendant Christian sent an e-mail to the
 17 defendant Nosal attaching three Korn/Ferry source lists of chief financial officers ("CFOs").
 18 These source lists originated from search engagements in which Korn/Ferry had been retained to
 19 conduct searches for CFOs. Each source list was marked "Korn/Ferry Proprietary &
 20 Confidential." Each source list had been downloaded from the Searcher database earlier in the
 21 day on April 12, 2005, using J.F.'s Korn/Ferry username and password.

22 c. On or about April 21, 2005, M.J. sent the defendants Nosal and Christian an e-
 23 mail with the subject line "CFO Names/Ideas," which e-mail contained a list of six CFOs with
 24 associated contact information. In the e-mail, M.J. stated that the individuals listed were from
 25 "the [Company A] CFO search." This was a search engagement on which Nosal and M.J. had
 26 worked while at Korn/Ferry. Nosal later responded to M.J.'s e-mail, saying "thank you."

27 d. On or about April 25, 2005, Company B formally retained Christian & Associates
 28 LLC to conduct a search for a CFO. Both the defendant Nosal and the defendant Christian

1 worked on and participated in this search.

2 e. On or about June 1, 2005, the defendant Christian sent an e-mail to two
 3 executives of Company B with the subject line "CFO Update." The defendant Nosal was copied
 4 on this e-mail. This e-mail stated, in part, "We wanted to give you an update as it relates to the
 5 CFO search," and then set out several possible candidates for the CFO position at Company B,
 6 among them, three individuals who were listed on the source lists that Christian had sent to Nosal
 7 on or about April 12, 2005.

8 f. On or about July 12, 2005, using a computer at Nosal's new offices in San
 9 Francisco, an individual remotely logged into Korn/Ferry's computer network using J.F.'s
 10 Korn/Ferry username and password. Thereafter, among other activities, a co-conspirator ran
 11 queries for information on two of the candidates for the Company B CFO position. In August
 12 2005, Company B announced that it had hired one of those two candidates as its CFO.

13 g. The defendant Christian also sent two other e-mails to the defendant Nosal on
 14 April 12, 2005 containing lists of CFOs in the medical industry in relation to a search that Nosal
 15 and Christian were performing for another company. Information in each of these e-mails was
 16 "cut and pasted" from a source list in Korn/Ferry's Searcher database.

17 Use of Position Specifications from Korn/Ferry's Computer System

18 h. On or about April 25, 2005, the defendant Nosal was retained by Company C to
 19 conduct a search for a person to fill a senior vice president of human resources position. In an e-
 20 mail dated April 25, 2005, the CEO of Company C informed Nosal that the CEO did not have a
 21 job description for the subject position and had asked Nosal to draft one. The e-mail stated:

22 David, you are on for the HR search. I don't have a job
 23 description. You guys need to craft one and get me to
 24 approve.....please make sure that the payment terms are the
 aggressive ones you quoted. thx.

25 i. On April 28, 2005, the defendant Christian sent the CEO of Company C a
 26 position specification that was in large part identical in sum and substance to a position
 27 specification recently obtained by J.F. from Korn/Ferry's computer system. This e-mail was
 28 signed "David & Becky," and Nosal was copied on this e-mail.

1 Other Instances of Misappropriation or Use of Information from Korn/Ferry's Computer System

2 j. During approximately the fourth quarter of 2004, immediately prior to her
3 separation from Korn/Ferry in approximately January 2005, the defendant Christian created and
4 downloaded Searcher Custom Reports containing over 3000 records. Christian took copies of
5 these reports with her when she terminated her employment with Korn/Ferry.

6 k. On or about May 3, 2005, the defendant Christian sent an e-mail to the defendant
7 Nosal and to M.J. with an attachment, indicating that the attachment related to a search that was
8 being conducted for Company C. The attachment was a Searcher Custom Report spreadsheet
9 containing approximately 19 executive names with contact information. The header of the
10 spreadsheet contained the heading "Korn/Ferry International San Francisco." The defendant
11 Nosal responded in an e-mail the same day, saying "thanks."

12 l. On or about May 26, 2005, M.J. sent two e-mails to J.F. containing the names of a
13 total of approximately 17 individuals regarding whom J.F. was to obtain information from the
14 Searcher database. M.J. obtained some of these names from Nosal. In the second e-mail, M.J.
15 also requested information regarding a prior Korn/Ferry search engagement. In response to the
16 defendant M.J.'s e-mails, J.F. obtained each individual's information from the Searcher database
17 and obtained the information in that database regarding the prior Korn/Ferry search engagement
18 identified by M.J. J.F. then copied all of the files containing the requested information onto a
19 CD. J.F. later provided this CD to M.J. The defendant Nosal later used some or all of the
20 information obtained from the Searcher database in a "pitch" meeting with representatives from
21 Company D in which Nosal was attempting to be retained by that company to conduct an
22 executive search and related activities.

23 m. At M.J.'s request, on or about June 3, 2005, J.F. performed a Searcher query for
24 human resource managers working for various companies. In response to J.F.'s query, the
25 Searcher database generated a Custom Report yielding approximately 366 executives with their
26 pertinent information. J.F. then exported the Custom Report to a Microsoft Excel spreadsheet
27 titled "Choc Chip Cookie Recipes," and saved the file to her computer Desktop folder. J.F. then
28 copied the "Choc Chip Cookie Recipes" file onto a CD titled "ChocChip Cookies." J.F. later

1 provided this CD to M.J. for use in the Company C search.

2 n. On or about July 29, 2005, using M.J.'s computer located in Nosal's new offices
3 in San Francisco, J.F. remotely logged into Korn/Ferry's computer network with her Korn/Ferry
4 username and password. Once logged in, J.F. returned control of the computer to M.J. M.J. then
5 proceeded to query Korn/Ferry's Searcher database and download information, including 25
6 Korn/Ferry source lists, from that database onto the computer.

7 All in violation of Title 18, United States Code, Sections 1832(a)(5) and 371.

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COUNTS TWO

1 **THROUGH SEVEN:** 18 U.S.C. §§ 1030(a)(4), 1030(c)(3)(A) & 2 — Unauthorized Access to a
 2 Protected Computer with Intent to Defraud and Obtaining Something of
 3 Value and Aiding and Abetting

4 20. The factual allegations in paragraphs 1 through 11 and 13 through 19 are re-
 5 alleged and incorporated herein as if set forth in full.

6 21. On or about the dates set forth in the separate counts below, in the Northern
 7 District of California, and elsewhere, the defendants

8 DAVID NOSAL and
 9 BECKY CHRISTIAN

10 did knowingly and with intent to defraud access a protected computer belonging to Korn/Ferry,
 11 without authorization and by exceeding authorized access, and by means of such conduct did
 12 further the intended fraud and obtain something of value, to wit, source lists and other
 13 information belonging to Korn/Ferry:

COUNT	DATE	ITEMS OBTAINED	ACCOUNT USED TO GAIN ACCESS
2	April 12, 2005	Three Korn/Ferry source lists relating to prior searches for CFOs	Korn/Ferry computer user account of J.F.
3	April 27, 2005	Position specifications for vice presidents of human resources at two different companies	Korn/Ferry computer user account of J.F.
4	May 26, 2005	Information regarding 17 individuals and a prior Korn/Ferry search engagement	Korn/Ferry computer user account of J.F.
5	June 3, 2005	Information regarding approximately 366 human resource managers	Korn/Ferry computer user account of J.F.
6	July 12, 2005	Information regarding two individuals who were candidates for Company B CFO position	Korn/Ferry computer user account of J.F.
7	July 29, 2005	25 Korn/Ferry source lists relating to prior searches	Korn/Ferry computer user account of J.F.

28 All in violation of Title 18, United States Code, Sections 1030(a)(4), 1030(c)(3)(A) and 2.

1 COUNT EIGHT: 18 U.S.C. §§ 1832(a)(1), 1832(a)(2), 1832(a)(4) & 2 — Theft,
2 Misappropriation, and Unauthorized Downloading of Trade Secrets and
Aiding and Abetting

3 22. The factual allegations in paragraphs 1 through 11 and paragraphs 13 through 19
4 are re-alleged and incorporated herein as if set forth in full.

5 23. On or about April 12, 2005, in the Northern District of California, and elsewhere,
6 the defendants

7 DAVID NOSAL and
8 BECKY CHRISTIAN,
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10 with the intent to convert trade secrets belonging to Korn/Ferry, specifically, three Korn/Ferry
11 source lists relating to prior searches for CFOs, as referred to in paragraph 19.b, to the economic
12 benefit of someone other than Korn/Ferry, which trade secrets were related to and included in
13 products that were produced for and placed in interstate and foreign commerce, did knowingly
14 steal and without authorization appropriate, take, carry away, and conceal and by fraud, artifice,
15 and deception obtain such information, and did knowingly and without authorization download,
16 copy, and duplicate such information, from Korn/Ferry's computer system, and did attempt to do
17 so, intending and knowing that such acts would injure Korn/Ferry.

18 All in violation of Title 18, United States Code, Sections 1832(a)(1), 1832(a)(2), 1832(a)(4),
19 and 2.

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1 COUNT NINE: 18 U.S.C. §§ 1832(a)(3), 1832(a)(4) & 2 — Unauthorized Receipt and
2 Possession of Stolen Trade Secrets and Aiding and Abetting

3 24. The factual allegations in paragraphs 1 through 11 and paragraphs 13 through 19
4 are re-alleged and incorporated herein as if set forth in full.

5 25. On or about April 12, 2005, in the Northern District of California, and elsewhere,
6 the defendants

7 DAVID NOSAL and
8 BECKY CHRISTIAN,
9

10 with the intent to convert trade secrets belonging to Korn/Ferry, specifically, three Korn/Ferry
11 source lists relating to prior searches for CFOs and information regarding CFOs that was “cut
12 and pasted” from a source list in Searcher, as referred to in paragraphs 19.b and 19.g, to the
13 economic benefit of someone other than Korn/Ferry, which trade secrets were related to and
14 included in products that were produced for and placed in interstate and foreign commerce, did
15 knowingly receive and possess such information, and did attempt to do so, knowing the same to
16 have been stolen and appropriated, obtained, and converted without authorization, intending and
17 knowing that such acts would injure Korn/Ferry.

18 All in violation of Title 18, United States Code, Sections 1832(a)(3), 1832(a)(4), and 2.

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COUNTS TEN
THROUGH SEVENTEEN: 18 U.S.C. §§ 1341 & 2 — Mail Fraud and Aiding and Abetting

26. The factual allegations in paragraphs 1 through 11 and paragraphs 13 through 19 are re-alleged and incorporated herein as if set forth in full.

27. Beginning on a date unknown to the Grand Jury, but by no later than in or about November 2004 and continuing to in or about August 2005, in the Northern District of California, and elsewhere, the defendants

DAVID NOSAL and
BECKY CHRISTIAN

did devise and intend to devise a scheme and artifice to defraud as to a material matter, and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, which scheme and artifice is summarized below. In sum and substance, the defendants Nosal and Christian, and others involved in the scheme and artifice, provided material false information to, and purposefully omitted and concealed material information from, Korn/Ferry regarding the defendant Nosal's executive search-related activities that were in violation of the Nosal-Korn/Ferry Agreements.

SCHEME TO DEFRAUD

28. It was part of the defendants' scheme and artifice that Nosal and Christian directed others to take without authorization and in excess of authorized access things of value and trade secrets belonging to Korn/Ferry from Korn/Ferry's computer system.

29. It was part of the defendants' scheme and artifice that Nosal and Christian used, directed others to use, and ratified others' use of things of value and trade secrets stolen from Korn/Ferry's computer system to conduct executive searches and related activities.

30. It was further part of the defendants' scheme and artifice that, after Nosal entered into the Nosal-Korn/Ferry Agreements, Nosal took actions to circumvent those agreements by conducting his own executive search-related activities. Nosal did so, at least in part, so that he could earn additional income over and above what Korn/Ferry had agreed to pay him during the term of the Nosal-Korn/Ferry Agreements. In 2005, and unbeknownst to Korn/Ferry, Nosal

received at least \$500,000 in gross receipts for his executive search-related activities, through payments from Christian & Associates LLC.

31. It was further part of the defendants' scheme and artifice that Christian established Christian & Associates LLC as a vehicle through which Nosal could conduct his executive search activities. Nosal and Christian agreed that Nosal would receive approximately 80% of the revenues of Christian & Associates LLC.

32. It was further part of the scheme and artifice that the defendant Nosal (a) affirmatively misrepresented on numerous occasions to Korn/Ferry executives that he was complying with the Nosal-Korn/Ferry Agreements; (b) did not notify Korn/Ferry that he was engaging in his own executive search activities; and (c) otherwise concealed and attempted to conceal from Korn/Ferry that he was engaging in his own executive search activities. Nosal did so, at least in part, so that he could continue to receive monthly independent contractor payments of \$25,000 from Korn/Ferry and so that he remained eligible to be paid the lump-sum payments envisioned in the Nosal-Korn/Ferry Agreements.

33. It was further part of the conspiracy that, for the purpose of concealing his activities from Korn/Ferry and others, the defendant would use the fictitious name "David Nelson" with candidates in relation to searches that he was conducting during the time that he was receiving payments from Korn/Ferry under the Nosal-Korn/Ferry Agreements. Further, because of her continuing employment with Korn/Ferry, J.F. also would use the fictitious name "S.S." in relation to searches on which she was assisting Nosal.

THE USE OF THE MAILS

34. On or about the dates listed below, for the purpose of executing the scheme and artifice set forth above, and attempting to do so, the defendants

DAVID NOSAL and
BECKY CHRISTIAN,

as more specifically set forth below, did knowingly cause to be delivered by the United States Postal Service and private and commercial interstate carrier according to the direction thereon.

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1 the matters and things as described below:

COUNT	DATE OF MAILING	SENDER	RECIPIENT ADDRESS	ITEM MAILED
10	November 23, 2004	Korn/Ferry	Danville, California	Check number 412547 in the amount of \$25,000
11	December 21, 2004	Korn/Ferry	Danville, California	Check number 413453 in the amount of \$25,000
12	January 25, 2005	Korn/Ferry	Danville, California	Check number 414403 in the amount of \$25,000
13	February 23, 2005	Korn/Ferry	Danville, California	Check number 415300 in the amount of \$25,000
14	March 22, 2005	Korn/Ferry	Danville, California	Check number 416550 in the amount of \$25,000
15	April 21, 2005	Korn/Ferry	Danville, California	Check number 417790 in the amount of \$25,000
16	May 23, 2005	Korn/Ferry	Danville, California	Check number 418864 in the amount of \$25,000
17	June 21, 2005	Korn/Ferry	Danville, California	Check number 419783 in the amount of \$25,000

19 All in violation of Title 18, United States Code, Sections 1341 and 2.

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1 COUNT EIGHTEEN: 18 U.S.C. § 1349 — Conspiracy to Commit Mail Fraud

2 35. The factual allegations in paragraphs 1 through 11, paragraphs 13 through 19, and
 3 paragraphs 27 through 34, including the scheme to defraud set out therein, are re-alleged and
 4 incorporated herein as if set forth in full.

5 36. Beginning on a date unknown to the Grand Jury, but by no later than in or about
 6 November 2004 and continuing to in or about August 2005, in the Northern District of
 7 California, and elsewhere, the defendants

8 DAVID NOSAL and
 9 BECKY CHRISTIAN

10 did knowingly and intentionally conspire and agree with each other to commit mail fraud, in
 11 violation of 18 U.S.C. § 1341.

12 OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

13 37. In furtherance of the conspiracy and to effect the objects thereof, the following
 14 overt acts, among others, were committed in the Northern District of California, and elsewhere:

15 a. In January 2005, the defendant Christian set up an executive search firm known as
 16 Christian & Associates LLC;

17 b. After his separation from Korn/Ferry and during the period that the Nosal-
 18 Korn/Ferry Agreements were in effect, the defendant Nosal solicited search engagements from
 19 various companies, including the companies referred to in paragraph 19, above. On at least some
 20 occasions, Nosal requested that these companies formally retain Christian & Associates LLC to
 21 perform any search engagements and remit any fees owed to Christian & Associates LLC, rather
 22 than to Nosal;

23 c. The defendant Christian remitted approximately 80% of the fees paid to her from
 24 these companies to the defendant Nosal;

25 d. On or about April 25, 2005, Company B formally retained Christian & Associates
 26 LLC to conduct a search for a CFO. Both the defendant Nosal and the defendant Christian
 27 worked on and participated in this search.

28 e. On or about April 25, 2005, the defendant Nosal was retained by Company C to

1 conduct a search for a person to fill a senior vice president of human resources position.

2 f. After his separation from Korn/Ferry, the defendant Nosal participated in regular
 3 telephonic meetings with Korn/Ferry's general counsel or another Korn/Ferry executive, or with
 4 both, in which Nosal indicated that he remained in compliance with the Nosal-Korn/Ferry
 5 Agreements. At no time during these meetings did Nosal ever disclose that he had been and was
 6 currently conducting or assisting in non-Korn/Ferry executive search activities after October
 7 2004.

8 g. On or about July 7, 2005, the defendant Christian sent an e-mail to the defendant
 9 Nosal reminding him that, with respect to appointments that J.F. was scheduling on behalf of
 10 Nosal and Christian with respect to their executive search activities, J.F. used the name "S.S."
 11 The text of that e-mail read, in pertinent part: "Member Jfl [J.F.] is now called [S.S.] as it relates
 12 to 'our new assistant.'"

13 h. On or about July 22, 2005, the defendant Nosal sent an e-mail to the defendant
 14 Christian and J.F. in which he instructed J.F. to use the name "David Nelson" instead of "David
 15 Nosal" when scheduling interviews with recruits. The text of that e-mail read, in pertinent part:

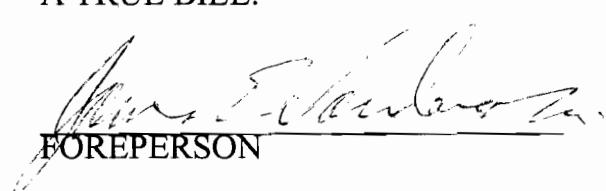
16 B [Christian] and Shelly [J.F.] - all of these people need to be seen
 17 asap no later then Wednesday aug 3rd. Please schedule the majority
 18 for B to see the mon/tues/wed she is back. I can see a few but
 visibility is not good. Also, if scheduling me please use David
 Nelson for my name.

19 All in violation of Title 18, United States Code, Section 1349.

20 DATED:

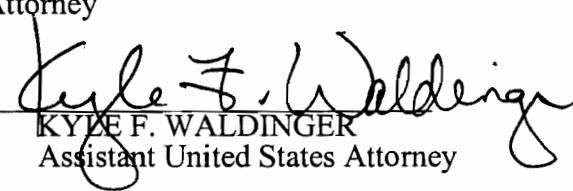
A TRUE BILL.

4-10-08


BRIAN J. STRETCH

24
 25 BRIAN J. STRETCH
 26 Acting United States Attorney

27 Approved as to Form:


KYLE F. WALDINGER
 Assistant United States Attorney